

ECONOMIC DEVELOPMENT AUTHORITY[261]

Notice of Intended Action

**Proposing rule making related to targeted small businesses
and providing an opportunity for public comment**

The Economic Development Authority (IEDA) hereby proposes to amend Chapter 52, “Iowa Targeted Small Business Certification Program,” and Chapter 55, “Targeted Small Business Financial Assistance Program,” Iowa Administrative Code.

Legal Authority for Rule Making

This rule making is proposed under the authority provided in Iowa Code section 15.106A.

State or Federal Law Implemented

This rule making implements, in whole or in part, Iowa Code section 15.108 and 2013 Iowa Acts, House File 324.

Purpose and Summary

Pursuant to Iowa Code section 15.108, IEDA certifies targeted small businesses (TSBs) and provides technical and financial assistance to TSBs. TSBs are certified pursuant to Chapter 52 if they are 51 percent or more owned by a minority, woman, person with a disability, or service-disabled veteran and meet other criteria for certification. The Targeted Small Business Financial Assistance Program provides loans to TSBs pursuant to Chapter 55.

The proposed amendments to Chapter 52 make it clear that a business owner with targeted status must be an Iowa resident and that eligibility for certification or recertification of TSBs will be determined pursuant to the rules in effect on the date of application. The proposed amendments to Chapter 55 update the chapter to reflect current administration of the loan program, including removal of references to grants and loan guarantees. Additionally, the proposed amendments describe the role of the microloan service provider with which the IEDA was directed to contract to administer the program by 2013 Iowa Acts, House File 324.

Fiscal Impact

This rule making has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rule making, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the IEDA for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

Public Comment

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the IEDA no later than 4:30 p.m. on June 8, 2021. Comments should be directed to:

Lisa Connell
Iowa Economic Development Authority
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
Phone: 515.348.6163
Email: lisa.connell@iowaeda.com

Public Hearing

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend rule **261—52.1(15)**, definition of “Targeted group person (TGP),” as follows:
“*Targeted group person*” or “*TGP*” means a person who is a minority, woman, person with a disability, or service-disabled veteran and is either an Iowa resident or a resident of a contiguous state who lives within 50 miles of the targeted small business the person owns, operates, and actively manages.

ITEM 2. Amend rule 261—52.2(15) as follows:

261—52.2(15) Certification. The authority is responsible for ascertaining that a small business is owned, operated, and actively managed by a targeted group person.

52.2(1) Regular certification. Before a small business can participate in the Iowa targeted small business program, it must be certified by the authority.

a. The authority shall review applications from small businesses to determine whether they are eligible to participate in the program pursuant to this chapter as in effect as of the date of application for certification.

b. Certification means the authority has determined that the business meets eligibility standards.

c. Applications for the targeted small business certification are available by contacting the authority or by visiting the authority’s website:

Iowa Economic Development Authority
~~200 East Grand Avenue~~
Des Moines, Iowa 50309
(515)725-3000
www.iowaeconomicdevelopment.com
1963 Bell Avenue, Suite 200
Des Moines, Iowa 50315
515.348.6200
www.iowaeda.com

d. Applicants shall receive written notification of the authority’s decision.

52.2(2) Recertification. Certified businesses shall submit verification of continued eligibility to the authority at least every two years.

a. The application for recertification will be provided by the authority.

- b. Other documents will be requested to verify the continuing eligibility of the business.
- c. The authority shall determine whether a certified business is eligible for recertification pursuant to this chapter as in effect as of the date of application for recertification.

52.2(3) to 52.2(7) No change.

ITEM 3. Amend subrule 52.3(3) as follows:

52.3(3) The information contained in the application may be reviewed by the applicant upon request to the ~~Iowa Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309; (515)725-3000~~ authority. Material to be added to a file may be sent to the authority.

ITEM 4. Rescind rule 261—55.2(15) and adopt the following **new** rule in lieu thereof:

261—55.2(15) Definitions. As used in this chapter, the following definitions shall apply:

“*Authority*” means the economic development authority created in Iowa Code section 15.105.

“*Disability*” means the same as defined in Iowa Code section 15.102(10) “b.”

“*Microloan service provider*” means a service provider that has contracted with the authority to provide financial and technical assistance to targeted small businesses.

“*Program*” means the targeted small business financial assistance program established pursuant to this chapter.

“*Review committee*” means a committee established by the authority or microloan service provider to review program applications pursuant to subrule 55.3(8).

“*Targeted small business*” or “*TSB*” means a small business which is 51 percent or more owned, operated, and actively managed by one or more women, minority persons, service-disabled veterans, or persons with a disability provided the business meets all of the following requirements:

1. Is located in this state;
2. Is operated for profit;
3. Has an annual gross income of less than \$4 million computed as an average of the three preceding fiscal years.

ITEM 5. Rescind rule **261—55.3(15)**.

ITEM 6. Renumber rule **261—55.4(15)** as **261—55.3(15)**.

ITEM 7. Amend renumbered rule 261—55.3(15) as follows:

261—55.3(15) Loan and grant program Application and approval.

55.3(1) Application procedures. Application materials may be obtained from the ~~IDED business finance team, any small business development center (SBDC), or any of the business advocate service providers~~ authority or microloan service provider.

55.3(2) Maximum funding levels. In no case shall an award exceed \$50,000, ~~nor in the case of a loan shall the~~. The interest rate charged shall not exceed 5 percent per annum or be less than 0 percent per annum. ~~Under no circumstances shall the targeted small business financial assistance program fund 100 percent of a project.~~ A targeted small business shall not receive a loan, ~~grant, or loan guarantee or a combination of loans, grants, or loan guarantees~~ under the program that ~~provide~~ provides more than 90 percent of the funding for a project. All applicants must invest at least 10 percent of the total project budget in cash.

55.3(3) Forms of financial assistance available Term. ~~The following types of financial assistance may be awarded under this program: loans, grants, loan guarantees or a combination of loans, grants and loan guarantees.~~

a. Direct loan. The term of a loan shall not exceed five years; ~~the interest rate shall not exceed 5 percent per annum.~~

b. Grant. Grant funds shall only be awarded in instances where the grant will leverage a significant amount of other financing, such as conventional or SBA financing packages. In order to receive a grant, the applicant must demonstrate a minimum of 10 percent cash investment in the project.

~~*c. Loan guarantee.* The program shall provide guarantees not to exceed 80 percent for loans of up to seven years made by qualified lenders.~~

~~**55.3(4) Eligible uses of funds.** Awards of funds under this program Program funds shall be used for legitimate business expenses, including, but not limited to, the following purposes: purchase of equipment and furnishings, inventory, purchase of and improvements to land and buildings and specific operating expenses.~~

~~**55.3(5) Ineligible uses of funds.** Targeted small business financial assistance Program funds shall not be used to refinance existing debt. Existing For the purposes of this subrule, existing debt in the context of this rule does not include interim financing for allowable program purposes intended as a bridge loan obtained after the date of the targeted small business award a program loan is approved. Neither shall the department award Program funds shall not be used to facilitate financing of a project which would consist solely of relocation of an existing business within Iowa. IDED may waive this limitation if the business demonstrates to IDED that it faces unusual circumstances which make the relocation necessary for the business's continued viability.~~

~~**55.3(6) Threshold criteria.** Applicants for funds under the targeted small business financial assistance program must meet the following minimum criteria before their applications will be considered complete and eligible for ranking evaluation:~~

~~*a.* If applying as a TSB, the business must be certified as a “targeted small business” by the department of inspections and appeals before applying for funding. In order to be certified as a targeted small business, a business owner must be a woman, a targeted minority, or a person with a disability and have established at least 51 percent ownership of the business, and be actively involved in the day-to-day management of the business. (The targeted small business owner must have the expertise or related experience in order to be considered actively involved in the day-to-day management of the business.) The business must be eligible for certification as a targeted small business pursuant to 261—Chapter 52 at the time of application. The authority or microloan service provider will educate applicants about the benefits of such certification and encourage applicants to seek certification.~~

~~*b.* After the TSB has been awarded a loan or grant or a loan guarantee, the TSB must continue to be a certified TSB for the life of the loan or grant. Failure to meet this requirement may result in the loan or grant being called and due within 30 days. This will include all principal, interest and any penalties that have been assessed. If recertification occurs within 30 days of the date of the notice, the original terms will be reinstated. An applicant must be a resident of Iowa for at least six months to be eligible to apply for assistance. Applicants may be asked to provide necessary documentation to prove legal residency.~~

~~*c.* All applicants shall comply with the requirements of 261—Chapter 172.~~

~~**55.3(7) Submittal process.** All applications and related informational materials shall be submitted on forms prescribed by IDED and in the manner prescribed by the authority or microloan service provider. Completed applications shall be submitted to: Targeted Small Business Financial Assistance Program, Bureau of Business Finance, Iowa Department of Economic Development, 200 East Grand Avenue, Des Moines, Iowa 50309.~~

~~**55.3(8) Review process.** All completed TSB applications are reviewed by the program manager on an ongoing basis.~~

~~*a.* Applications are reviewed for completeness. If additional information is required, the program manager authority or microloan service provider shall send the applicant notice to submit additional information. The applicant shall then have three weeks from the date of the IDED letter to submit the requested information. If the requested information is not provided by the deadline indicated in the notice, the application may be considered incomplete or ineligible.~~

~~*b.* The authority or microloan service provider will establish a committee of at least three individuals to review all applications.~~

~~Application requests are initially rated for funding by IDED staff. They are then reviewed on a monthly basis by the board. The board is an advisory committee established by 2007 Iowa Acts, House File 890, to assist the department in the evaluation of applications. The board is comprised of private sector representatives experienced in small business management and operation. The board membership~~

shall consist of seven members, including one each from the following populations: Latino, Black, Asian or Pacific Islander, Caucasian women, Native American, and a person with a disability as defined in Iowa Code section 15.102 as amended by 2007 Iowa Acts, House File 890. One of the members shall be a member of the economic development board appointed by the economic development board. A quorum is four members. It requires the vote of at least four board members to recommend action on an application to the director. The board may recommend to the director the approval, denial, or deferral of an application. If less than a quorum of the board is present at a meeting, an application will be forwarded to the director without a recommendation from the board.

55.3(9) *Rating factors Evaluation.* Applicants must score a minimum of 60 out of a possible 100 points in order to be recommended for funding. Points are awarded based on the information contained in the application. Applications are evaluated according to the following criteria:

a. Business plan (20 points possible). Factors considered include: Does the application contain significant information regarding the product or service to be offered? Has the applicant provided sufficient documentation to support/justify the cash flow assumptions, e.g., third party documentation regarding market size, annual sales and competition?

b. Financial plan (20 points possible). Factors considered include: Does the application contain comprehensive two year cash flow projections which show the viability of the business? Does the application provide completed personal financial information and information on other funding sources?

c. Financial need (20 points possible). Factors considered include: the applicant's personal liquid assets and the applicant's ability or inability to secure a loan from conventional sources (i.e., bank, savings and loan, credit union, SBA).

d. Marketing plan (5 points possible). Factors considered include: Does the application contain sufficient information to ascertain that the applicant fully understands who the customers are and how to effectively reach them?

e. Management expertise and related experience (20 points possible). Factors considered include: Does the applicant have education or work experience that is relevant to the proposed business? Does the application document previous business training or management experience?

f. Loan repayment (10 points possible). Factors considered include: Does the application document the business's ability to service its debt?

g. Nontraditional (5 points possible). Factors considered include: Is the proposed business category one in which TSBs have traditionally been underrepresented as owners?

h. Extra points (up to 5 points). Extra credit points may be awarded to applicants meeting the requirements described in 261 Chapter 171 for the award of extra points (e.g., project is in a blighted, brownfield or distressed area).

a. Applicant credit score and outstanding liabilities.

b. Source(s) of the applicant's income.

c. Debt service coverage ratio.

55.3(10) *Negotiations of funds awarded.*

a. The department authority reserves the right to negotiate the amount, term, interest rate, and other conditions of the loan or grant prior to award. The amount, term, interest rate, and other conditions may be negotiated by a microloan service provider on behalf of the authority.

b. The department authority or microloan service provider may decline to award funds to a business if there is a negative credit report (e.g., bankruptcy, foreclosure, tax liens, or unpaid or past due child support).

55.3(11) *Award process decision.* Upon approval by the director If an application is approved by the review committee, the applicant business will receive an award letter which shall state the amount of award, conditions of the award, any security agreements, and the amount of monthly loan repayments. If an application is denied by the review committee, the applicant will receive a denial letter stating the reason for denial.

55.3(12) *Contract.* Following notification of award, contracts are prepared for execution between the business owner and IDED. After execution of the contract, the business owner may request

disbursement of funds, on the form prescribed by IDEED. The time frame between final award date and disbursement of funds will generally be one to two months.

~~55.3(13) Deferral process.~~ Applications may be deferred only one time by the loan review committee. If all additional information requested is received within the three-week time frame, the application will be considered on the following month's agenda. If information is not received in a timely manner, second consideration will be delayed by 30 days. No application will be held for over 60 days. If the request for additional information is not answered, the application will be denied.

~~55.3(14) 55.3(12) Reapplication.~~ Upon denial by the director, an An applicant whose application is denied by the review committee cannot resubmit an application for funding under the targeted-small business financial assistance the program for 90 days (3 months) from the date of IDEED's the denial letter.

~~55.3(15) Default.~~ When a loan is in default for a period of 60 days, the IDEED shall notify the office of the attorney general and request appropriate action.

~~55.3(16) Misuse of funds.~~ A person receiving funds under the TSB financial assistance loan program may be subject to criminal penalties under Iowa Code section 15A.3 if it is determined that the person knowingly made a false statement in writing to procure economic development assistance from the state.

~~55.3(17) Comprehensive management assistance and entrepreneurial development.~~

~~a. Limitation.~~ Comprehensive management assistance and entrepreneurial development is limited to businesses or individuals that have been awarded TSB funding.

~~b. Use of funds.~~ Assistance is available only in the form of technical or professional assistance. This may be accomplished by use of department staff or department-contracted professional services in assisting the business to develop:

1. Management skills;
2. Inventory controls;
3. Financial controls;
4. Marketing plans;
5. Personnel assistance; or
6. Other related business assistance.

~~c. Determination of assistance.~~ The administrator for the division of business development shall have the authority to approve contracts for management assistance. The maximum of case management assistance shall not exceed \$2,500 per business or individual.

ITEM 8. Renumber rule ~~261—55.7(15)~~ as ~~261—55.4(15)~~.

ITEM 9. Amend renumbered rule ~~261—55.4(15)~~ as follows:

261—55.4(15) Monitoring and reporting for loan, grant, and loan guarantee programs.

~~55.4(1) Monitoring.~~ IDEED The authority or microloan service provider reserves the right to monitor the recipient's records to ensure compliance with the terms of the award. The department retains the authority to authority or microloan service provider may request information on the condition of the business at any time during the life of the loan to determine the status of the project. ~~IDEED~~ Authority or microloan service provider staff will contact the ~~loan or grant~~ recipient ~~within 90 days of the award and~~ as frequently as conditions may warrant during the life of the loan ~~or grant~~.

~~55.4(2) Management assistance.~~ The ~~department~~ authority or microloan service provider may require a program recipient to consult with designated small business service providers for assistance with various aspects of the management and operation of the business.

~~55.4(3)~~ If the authority or microloan service provider determines that a borrower is in default, the authority may seek recovery of the loan plus interest or other penalties, negotiate alternative payment schedules, suspend or discontinue collection efforts and take other action as the authority deems necessary.

~~55.4(4)~~ A person receiving funds under the program may be subject to criminal penalties under Iowa Code section 15A.3 if it is determined that the person knowingly made a false statement in writing to procure economic development assistance from the state.

ITEM 10. Rescind rule 261—55.5(15) and adopt the following new rule in lieu thereof:

261—55.5(15) Disbursement of funds. An approved applicant shall acknowledge and agree to the terms proposed by the authority or microloan service provider prior to disbursement of funds. Requests for disbursement and loan documents shall be in the form and content specified by the authority.

ITEM 11. Rescind and reserve rule **261—55.6(15)**.

ITEM 12. Amend **261—Chapter 55**, implementation sentence, as follows:

These rules are intended to implement Iowa Code sections 15.102 and ~~15.247~~ 15.108 and 2013 Iowa Acts, House File 324.